

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HAZEL M. ROBY, as Administratrix of §
the Estate of RONALD TYRONE §
ROBY, Deceased, §

Plaintiff, §

v. §

BENTON EXPRESS, INC., et al., §

Defendants. §

CIVIL ACTION NO.
2:05cv494-B

PLAINTIFF'S MOTION TO AMEND COMPLAINT

COMES NOW the Plaintiff in the above styled matter, by and through the undersigned counsel of record and hereby requests that this Court enter an Order granting Plaintiff's Motion to Amend Complaint by adding Count Three, as evidenced on the Amended Complaint attached hereto as Exhibit A.

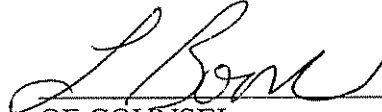

LABARRON N. BOONE (BOO029)

OF COUNSEL:

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(334) 269-2343 – Telephone
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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following on this the 14th day of October 2005.



OF COUNSEL

Brett A. Ross
Gregory A. Brockwell
***Carr, Allison, Pugh, Howard,
Oliver & Sisson, P.C.***
100 Vestavia Parkway, Suite 200
Birmingham, Alabama 35216

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ORDER

This Court, after having considered Plaintiff's Motion to Amend Complaint,
hereby grants Plaintiff's Motion to Amend Complaint.

DONE and ORDERED on this the _____ day of October 2005.

U. S. DISTRICT JUDGE

cc: Brett A. Ross
Gregory A. Brockwell
Jere L. Beasley
LaBarron N. Boone
Julia A. Beasley

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PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff hereby amends her Complaint in the above-styled matter as follows:

STATEMENT OF THE PARTIES

1. Plaintiff, Hazel M. Roby, is over the age of 19 years and resides in Montgomery County, Alabama.

2. Plaintiff is the widow of Ronald Tyrone Roby and is the duly appointed Administratrix of the Estate of Ronald Tyrone Roby.

3. Defendant Benton Express, Inc. is a foreign corporation whose principal place of business is 1045 South River Industrial Boulevard South, Atlanta, Georgia.

4. Fictitious Defendant "A" is the employer of Craig Anthony Stephens.

5. Fictitious Defendant "B" is the supervisor of Craig Anthony Stephens.

6. Fictitious Defendant "C" is the owner of the vehicle driven by Craig Anthony Stephens.

7. Fictitious Defendant "D" is the safety director of Benton Express, Inc.

8. Fictitious Defendants "E," "F," "G," and "H," whether singular or plural, are those other persons, firms, partnerships corporations or other entities whose wrongful conduct caused or contributed to cause the death of Ronald Tyrone Roby.

9. The true and correct names of all fictitious Defendants are unknown to Plaintiff at this time, but will be substituted by amendment when ascertained.

STATEMENT OF THE FACTS

10. At all times material hereto, Craig Anthony Stephens was employed by Benton Express, Inc.

11. On April 11, 2005, Ronald Tyrone Roby, was operating a motor vehicle in a southerly direction on Interstate Highway I-65 at the I-65/I-85 Interchange in Montgomery County, Alabama..

12. On the aforesaid date, Craig Anthony Stephens was operating an 18-wheel tractor and trailer at the I-65/I-85 Interchange..

13. Prior to reaching the I-65/I-85 interchange, Craig Anthony Stephens had been driving in a reckless manner.

14. Defendant Benton Express, Inc. owned the vehicle operated by Craig Anthony Stephens.

15. At all times pertinent hereto Craig Anthony Stephens was an agent of Benton Express, Inc. and was acting within the line and scope of his employment.

16. This action is brought pursuant to *Code of Alabama*, §6-5-411.

COUNT ONE **(Negligence)**

17. Plaintiff realleges all prior paragraphs of the Complaint as if set out herein full.

18. At the aforesaid time and place, Craig Anthony Stephens negligently operated the 18-wheel tractor trailer he was driving causing it to fall off Interstate Highway I-85 and crash into the vehicle Ronald Tyrone Roby's vehicle.

19. The Roby vehicle was caused to explode into flames and burn.

20. Ronald Tyrone Roby died in the collision and resulting fire.

21. As a proximate consequence of Craig Anthony Stephens' negligence, Ronald Tyrone Roby was wrongfully killed.

Wherefore, Hazel M. Roby, as Administratrix of the Estate of Ronald Tyrone Roby, deceased, demands judgment against Defendants in such amount as a jury may award and her costs of this action.

COUNT TWO
(Wantonness)

22. Plaintiff realleges all prior paragraphs of the Complaint as if set out herein full.

23. At the aforesaid time and place, Craig Anthony Stephens wantonly operated his the 18-wheel tractor-trailer so as to cause it to crash on top of the vehicle being driven by Ronald Tyrone Roby.

24. As a proximate consequence of Craig Anthony Stephens' wantonness, Ronald Tyrone Roby was wrongfully killed.

Wherefore, Plaintiff, Hazel M. Roby, as Administrator of the Estate of Ronald Tyrone Roby, deceased, demands judgment against Defendants in such amount as a jury may award and her costs of this action.

COUNT THREE

**(Negligent and Wanton Training, Supervision,
Policies and Procedures, etc. – Benton Express)**

25. Plaintiff realleges all prior paragraphs of the Complaint as if set out herein full.

26. Benton Express negligently and wantonly failed to enforce, train, supervise, monitor, implement policies and procedures that would allow it to communicate with its driver/employee, Craig Anthony Stephens who was operating a loaded Benton Express 18-wheeler when he crashed into Ronald Tyrone Roby. Benton Express is in the business of hauling freight by tractor-trailer on federal, state, and county roads/ highways. Benton Express had a duty to Plaintiff and others to properly train and supervise its drivers engaged in the business of hauling cargo. The acts and/or omissions of Benton Express constitute negligent and wanton training, monitoring, and supervision. As a result of Benton negligent and wanton failure to enforce or implement reasonable safety policies and procedures or to train its drivers regarding its policies and procedure, Mr. Ronald Roby was killed.

27. Plaintiff further alleges that Defendant Benton Express was negligent and wanton for failing to equip its vehicles with equipment that would allow it to track or locate its tractor-trailers or drivers in case of an emergency or any other situation that would present a danger to the motoring public. As a result of Defendant's negligent and wanton failure to equip its vehicles with features and equipment that would have allowed it to track, locate, or communicate with the vehicle or driver in the vehicle, the subject wreck occurred, causing the loss of Ronald Tyrone Roby's life.

28. As a result of said negligence and wantonness, Ronald Tyrone Roby was wrongfully killed.

WHEREFORE, Hazel M. Roby, as Administrator of the Estate of Ronald Tyrone Roby, deceased, demands judgment against Defendant in such amount as a jury may deem reasonable, plus costs of this action.

JERE L. BEASLEY	(BEA020)
LABARRON N. BOONE	(BOO029)
JULIA A. BEASLEY	(BEA039)

OF COUNSEL:

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